

## ORIGINAL CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

TONKO REYES, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

LLOYDS OF LONDON

04-00016

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT London, U.K.  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Mitchell F. Thompson, Esq.  
Maher & Thompson, P.C.  
First Savings & Loan Building  
140 Aspinall Avenue  
Hagatna, Guam 96910 P#(671) 477-7892

ATTORNEYS (IF KNOWN)

David Ledger, Esq.  
Carlsmith Ball LLP  
Suite 401, Bank of Hawaii Building  
134 West Soledad Avenue  
Hagatna, Guam 96910 P#(671) 472-6813

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input checked="" type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 610 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 U.S.C. §1332(a)(2) - Removal of Action from the Superior Court of Guam.

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

March 25, 2004

SIGNATURE OF ATTORNEY OF RECORD

RECEIVED

MAR 25 2004

DISTRICT COURT OF GUAM  
HAGATNA, GUAM

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \$ \_\_\_\_\_ APPLYING FOR \_\_\_\_\_ JUDGE \_\_\_\_\_

ORIGINAL

CARLSMITH BALL LLP

DAVID LEDGER  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue, P.O. Box BF  
Hagåtña, Guam 96932-5027  
Tel No. 671.472.6813

Attorneys for Defendant  
Lloyds of London

**FILED**  
DISTRICT COURT OF GUAM  
**MAR 25 2004**  
MARY L. M. MORAN  
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM

TONKO REYES, INC.,

Plaintiff,

vs.

LLOYDS OF LONDON,

Defendant.

CIVIL CASE NO. **04-00016**

**DEFENDANT'S NOTICE OF  
REMOVAL; EXHIBIT A**

Defendant Lloyds of London, pursuant to 28 U.S.C. § 1332(a)(2) and 28 U.S.C. §1446, hereby removes the above action from the Superior Court of Guam to this Court on the following grounds:

1. The above action was filed in the Superior Court of Guam as Civil Case No. CV0256-04 on or about March 5, 2004, and is now pending in that Court. Defendant first learned of the action on or about March 8, 2004.


2. This Court has original jurisdiction under 28 U.S.C. § 1332(a)(2).

3. Defendant is thus entitled to remove the above action from the Superior Court of Guam to this Court pursuant to 28 U.S.C. § 1332(a)(2) and 28 U.S.C. §1446.

4. Copies of all process, pleadings and orders served upon Defendant are attached as Exhibit "A" and filed herewith.

DATED: Hagåtña, Guam, March 25, 2004.

CARLSMITH BALL LLP

  
\_\_\_\_\_  
DAVID LEDGER  
Attorneys for Defendant  
Lloyds of London



140 ASPINALL AVENUE,  
SUITE 201, AGANA, GUAM 96910  
TEL: (671) 477-7892/4  
FAX: (671) 477-7889  
E-MAIL: ted@netpci.com

Attorneys for Plaintiff  
TONKO REYES, INC.

SUPERIOR COURT  
GUAM

2004-03-25

CLERK

FILE

IN THE SUPERIOR COURT OF GUAM

TONKO REYES, INC.,

Plaintiff,

vs.

LLOYDS OF LONDON,

Defendants.

CIVIL CASE NO. CV 04-0001

SUMMONS

To the above-named defendant:

LLOYDS OF LONDON  
Lot No. 5102-1NEW-1  
Dededo, Guam

YOU ARE HEREBY SUMMONED and required to serve upon MAHER & THOMPSON, P.C., whose address is 140 Aspinall Avenue, Suite 201, Agana, Guam 96910, an answer to the complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive the date of service. If you fail to do so, judgment by default will be taken against you for the relief demand in the complaint.

DATED:

RICHARD B. MARTINEZ  
Acting Clerk of Court  
Superior Court of Guam

By:

J. James R. Borja  
Deputy Clerk

**EXHIBIT A**

MAHER & THOMPSON, PC.  
140 Aspinall Avenue, suite 201  
Agana, Guam 96910  
Telephone: (671) 477-7892/4  
Facsimile: (671) 477-7889

Attorneys for Plaintiff

SUPREMACY COURT  
2700-2-11-04  
FILED  
MAR 11 2004

IN THE SUPERIOR COURT OF GUAM

TONKO REYES, INC.,

Plaintiff,

vs.

LLOYDS OF LONDON,

Defendant.

CIVIL CASE NO.CV

COMPLAINT

Plaintiff alleges as follows:

1. This court has jurisdiction of this matter pursuant to 7 Guam Code Annotated section 3105, and 22 Guam Code Annotated section 18608.

2. Plaintiff Tonko Reyes, Inc. ("TRI") is a corporation organized and operating under the laws of Guam, and the holder of a leasehold interest in certain real property (and the commercial building situated thereon) located in Dededo, Guam, more particularly described as Lot No. 5102-1NEW-1, Municipality of Dededo, Guam (hereinafter referred to as "the premises").

COPY

3. Defendant Lloyds of London ("Lloyds") is, upon information and belief, a foreign insurer registered to engage in the business of insurance on Guam.

4. On or about October 21, 2001, TRI entered into a lease agreement with Cost-U-Less, Inc. ("CUL") for certain portions of the commercial building located on the premises. Under the terms of the lease, CUL maintained fire insurance (including typhoon coverage) for the entire premises.

5. On or about January 1, 2002, Lloyds issued its fire insurance policy number NNO76210B covering the premises, naming CUL and TRI as loss payees. The stated value of the premises under the policy was \$2,200,000.00, and the policy also included additional coverage for costs such as demolition and debris removal, appraisal fees, code compliance and extra expenses caused by the loss.

6. On or about December 8, 2002, while Lloyds' insurance policy was in full force and effect, the premises was totally destroyed by typhoon Pongsongwha.

7. TRI has performed all conditions of the policy on its part to be performed, and in accordance with the terms of the policy, gave Lloyds, through its agent and adjuster, due and timely notice of and proof of loss.

8. TRI has demanded from Lloyds payment of the sum of \$682,897.63, under the additional coverage (demolition and debris removal, continuing expense, extra expense, appraisal fees and code compliance) under its policy, but Lloyds has failed and refused, and continues to fail and refuse, to pay TRI that sum.

9. As a proximate result of Lloyds' failure and refusal to timely pay TRI as alleged herein, TRI has been damaged in the sum of \$682,897.63.

10. Due to Lloyds' failure to timely pay TRI for all sums due under the additional coverage, Lloyds is liable to TRI for twelve percent of all sums due, along with TRI's reasonable attorneys fees incurred for the prosecution and collection of such sums, pursuant to 22 Guam Code Annotated section 18608.

11. Lloyds also failed to timely pay TRI for all sums due under the stated value of the policy (\$2,200,000.00) and Lloyds is therefore liable for twelve percent of that sum, along with TRI's reasonable attorneys fees incurred in the collection of said sum, pursuant to 22 Guam Code Annotated section 18608.

WHEREFORE plaintiff prays judgment against defendant as follows:

1. For the sum of \$ 682,897.63, together with interest thereon at the legal rate until entry of judgment herein;

2. For an additional twelve percent of the above sum, pursuant to 22 Guam Code Annotated section 18608;

3. For an additional twelve percent of the stated value of the policy (\$2,200,000.00), pursuant to 22 Guam Code Annotated section 18608.

4. For plaintiff's reasonable attorneys fees incurred herein, pursuant to 22 Guam Code Annotated section 18608;

5. For costs of suit herein;

6. For such other and further relief as the court

may deem proper.

Dated this 5th day of March, 2004.

MAHER & THOMPSON, P.C.

Attorneys for Plaintiff

By: [Signature]  
for MITCHELL F. THOMPSON